

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- June 14, 1967

Appeal No. 9253      Penco, Inc., appellant.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and unanimously carried, the following Order was entered at the meeting of the Board on June 20, 1967.

ORDERED:

That the appeal for variance from the use provisions of the R-5-B District to permit office of non-profit organization (Poverty Rights Action Center) at 1713 R Street, NW., lot 303, square 154, be denied.

FINDINGS OF FACT:

(1) The subject property is located in an R-5-B District and is improved with a two-story brick and stucco building containing five rooms and two baths.

(2) The property is now being used by a non-profit organization called Poverty Rights Action Center.

(3) Appellant asserts that the property is too small to be converted for apartments.

(4) The property has been advertised for rent over a period of four (4) months at \$175.00 per month. Appellant states that he has been unable to rent the property for residential purposes.

(5) The current tenants occupy the building under a tenancy from month to month.

(6) The present tenant, Poverty Rights Action Center, has a staff of five persons and operates weekdays during the hours 9:00 a.m. to 7:00 p.m. The organization functions as a communication center for various groups in the United States. The funds of the organization are from private contributions, primarily from individuals.

(7) The Dupont Circle Citizens Association appeared at the public hearing in opposition to this appeal.

OPINION:

We are of the opinion that this appeal must be denied. There is no evidence to substantiate that the subject property cannot be used as zoned. The evidence only shows that recent efforts, to date, have been unavailing as far as renting the property for residential purposes. The reason for nonrental is not conclusive. There could be numerous reasons why no one is willing to rent for residential purposes at the present time. However, the property is residential, has all the characteristics of residential property, and has been used as zoned. The current use of the property cannot be used to substantiate a variance from the use provisions of the Regulations. We interpret the variance clause to mean that a variance from the use can be granted only upon evidence that the subject property cannot be used for its zoned purpose, not that the zoned purpose is not the most economical use of the property.

Further, we believe that the requested use variance takes on the character of a zone change. Changes in zoning are not within the jurisdiction of this Board and are solely the province of the Zoning Commission. To grant this variance would not be consistent with the intent and purpose of the Zoning Regulations and Map and consequently against the public interest and tend to impair the present character and future development of the neighborhood.